

REMARKS

Favorable reconsideration and allowance of the claims of the present application are respectfully requested.

In the Office Action dated January 10, 2006, Claims 1-19 are pending. Claims 3, 8 and 12-19 are withdrawn from further consideration as directed to nonelected species/groups. Claims 1-2, 4-7 and 9-11 are under consideration on the merits.

Before addressing the specific grounds of rejection raised in the present Office Action and in an effort to favorably advance the prosecution, Applicants have canceled Claims 3, 8 and 12-19, without prejudice. Applicants have also made a minor amendment to Claim 1 which is self-explanatory. Applicants reserve the right to file one or more divisional applications to pursue the subject matter of Claims 3, 8 and 12-19.

Claims 1-2, 4, 6, 10-11 are rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent No. 6,927,159 B2 to Faust et al. ("Faust et al.").

Applicants respectfully submit that Faust et al. is not a proper reference under 35 U.S.C. § 102(e). In this regard, Applicants refer to the attached 1.131 Declaration executed by the present inventors (including Exhibits A and B) that accompanies the submission of this Response. In the attached 1.131 Declaration, the inventors attest that they have conceived and reduced to practice the invention, which is disclosed and claimed in the present application, prior to the effective filing date of Faust et al. (i.e., prior to May 27, 2003). Specifically, Applicants declare that they have conceived and reduced to practice a semiconductor structure such as, an interconnect structure that comprises one or more interconnect levels, one on top of each other, each level comprising an organo-silicate glass (OSG) dielectric material having a plasma treated

surface layer that provides improved adhesion to an overlying lower hardmask, yet is substantially undamaged, as is recited in Claim 1 of the present application.

To evidence the conception and reduction to practice of the claimed structure, the 1.131 Declaration includes Exhibits A and B. Exhibit A is a true reprint in PDF format of IBM Invention Disclosure YOR820030277, which was created prior to May 27, 2003. Exhibit A includes a Main Idea section for the Invention Disclosure which describes the fabrication of a semiconductor structure such as an interconnect structure that is recited in Claim 1 of the present application. Exhibit B is the inventors' write-up of the Disclosure that was also created prior to the effective filing date of Faust et al. This write-up provides greater detail of the invention presently claimed including experimental data that establishes clear evidence of actual fabrication of the claimed semiconductor structure. Particular attention is made to the experimental data in Exhibit B that establishes clear evidence of actual fabrication of the semiconductor structures presently claimed.

In view of the above together with the submission of the accompanying 1.131 Declaration, Applicants respectfully submit that the rejection of Claims 1-2, 4, 6, and 10-11 under 35 U.S.C. §102(e) citing Faust et al. has been obviated and withdrawal thereof is respectfully requested.

Claims 5, 7 and 9 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Faust et al.

Claim 5 depends from Claim 4, which depends from Claim 1, and Claims 7 and 9 are dependent claims of Claim 1. Claim 5 incorporates all the elements and limitations of Claims 1 and 4; Claims 7 and 9 incorporate all the elements and limitations of Claim 1. The Examiner contends that the additional elements or limitations of Claims 5, 7 and 9 are either

routine or known in the art. Thus, based on the above-alleged anticipation of Claims 1-2, 4, 6, 10-11 by Faust et al., the Examiner asserts that Claims 5, 7 and 9 is obvious in view of Faust et al. However, as discussed above, Faust et al. is not a proper reference under 35 U.S.C. § 102(e) for anticipating Claims 1-2, 4, 6, 10-11. Therefore, Faust et al. is not available as a proper reference under 35 U.S.C. § 103 with respect to Claims 5, 7 and 9. Accordingly, a rejection of Claims 5, 7 and 9 under 35 U.S.C. § 103 based on Faust et al. cannot sustain.

In view of the foregoing amendments and remarks, it is firmly believed that the subject application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



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